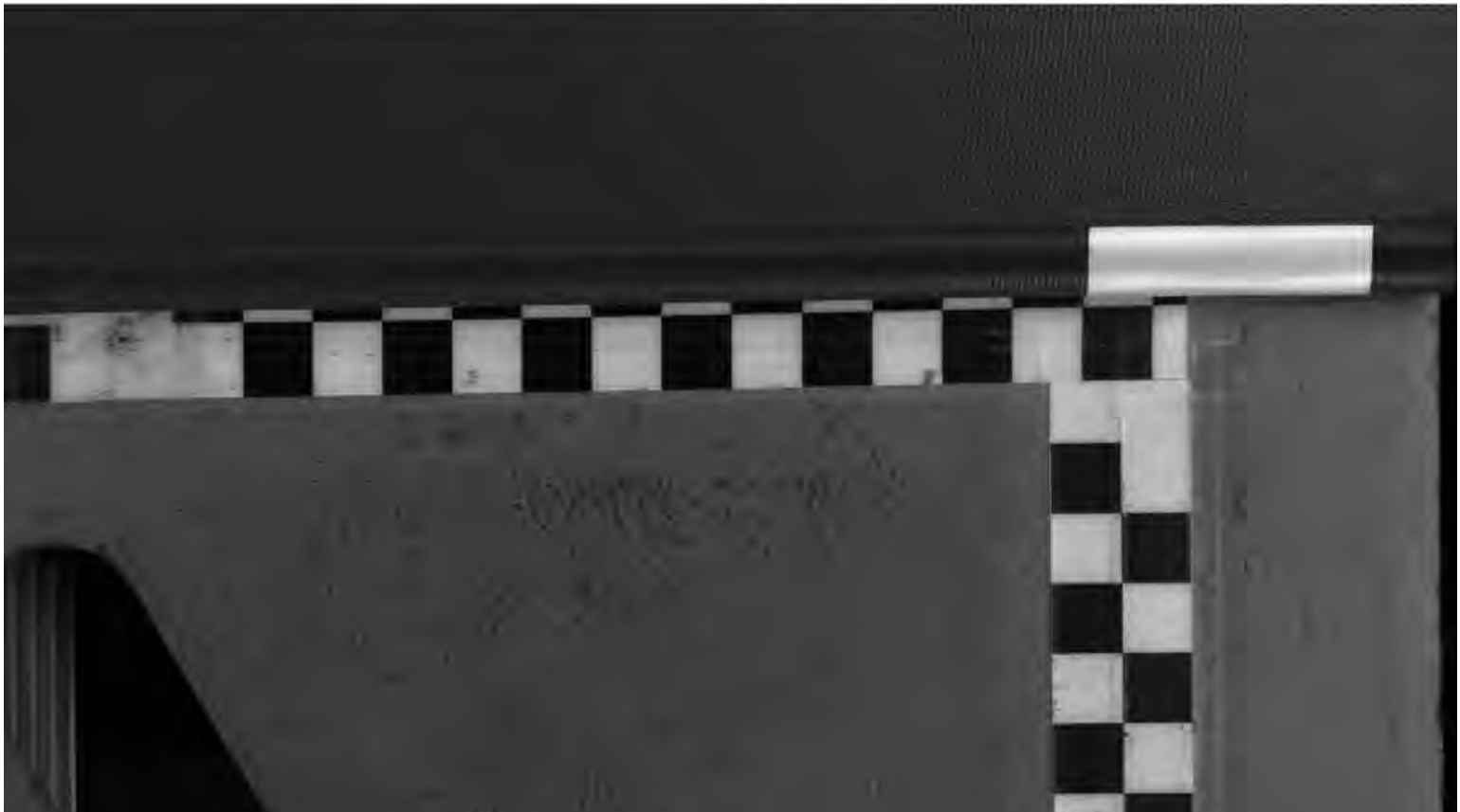

AN EULOGIUM

ON THE

LIFE AND CHARACTER

OF

HORACE BINNEY,

BY THE

HON. WILLIAM STRONG,

JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

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1876.

In August, 1875, soon after the death of Horace Binney, the Bar of Philadelphia, the Law Association of Philadelphia, and the American Philosophical Society, united in requesting the Hon. William Strong, Justice of the Supreme Court of the United States, to deliver an Eulogium upon Mr. Binney's life and character.

At a meeting of the Joint Committee of the Bar of Philadelphia, the Law Association of Philadelphia, and the American Philosophical Society, held on the 6th of January, 1876, James J. Barclay, *Chairman*, William M. Tilghman, *Secretary*, the following resolution was unanimously adopted:—

Resolved, That the thanks of the Committee be presented to the Hon. William Strong, for his Address—alike worthy of the subject and the speaker—delivered last evening, on the life and character of the late Horace Binney; and that he be requested to furnish a copy for publication.

To James J. Barclay, Esq., Chairman, etc.:

Dear Sir,—I have received the resolution adopted yesterday by the Joint Committee of the Bar of Philadelphia, the Law Association, and the American Philosophical Society, and, as requested, I place the "Address" at the Committee's disposal.

I am very respectfully, etc.,

W. Strong.

Washington, Jan. 7, 1876.

DISCOURSE

ILLUSTRATIVE OF

THE LIFE AND CHARACTER

OF

HON. HORACE BINNEY.

Gentlemen of the Bar of Philadelphia, of the Law Association, and of the American Philosophical Society.

Forty years ago, in this Hall, on an occasion much like the present, Mr. Binney commenced his eulogy of Chief Justice Marshall with the following remark, "The Providence of God is shown most beneficently to the world, in raising up, from time to time, and in crowning with length of days, men of pre-eminent goodness and wisdom." The thought thus expressed is worthy of recall to-day. At intervals, all along the line of human history, and especially in enlightened communities, men have appeared, who, by their native endowments, their thorough culture, their ceaseless energy, and their moral worth, have raised themselves to a plane above that of their fellows; men who have been in advance of all their cotemporaries, and to whom the rank of leaders has been universally conceded. Such

leaders have arisen in every department of social life, in the learned professions, among the devotees to fine arts, in the regions of invention, in the explorations of natural science, in mechanical pursuits, in those of commerce, and even in the department of agriculture. Occasionally some noted one has lifted his standard of attainment higher than that of any of his predecessors, and has gone forward beyond their utmost reach. Such men are among the best gifts to the world, of a beneficent God. It is through their agency society makes progress. They lead the onward way. Their lives lend attractive force to that which is truly valuable. They present models for imitation, and their achievements stimulate to a generous rivalry. Their standard, "full high advanced," is ever visible, and it calls, with a noiseless but persuasive voice, to those who are behind to move onward. No one can overestimate the value of such a life to young men in the legal profession, if it be kept ever in view. If they have not mistaken their calling, it must win their admiration, and stir the noblest impulses of their hearts. It is a perpetual reproof of contentment with any attainments less than the highest possible, a rebuke of character and conduct unbecoming the best aims, and it gives courage for the grandest efforts.

Happily the lessons of such a life are beyond the reach of death. They are the rightful property of more than one generation. They ought never to fade into oblivion. To preserve them with gratitude for

the past and with hope for the future, is a duty which the living owe to themselves and to those who shall come after them. And this duty is best performed as a skillful painter preserves in memory the subject of his portrayal. A portrait is not a life, it is true, but it recalls a life. So a delineation of character and achievement, if it be accurate, prolongs the influences the character is fitted to exert. It is therefore in obedience to your desire to perpetuate, so far as may be, the instruction and example of a life more than commonly eminent and useful, that I am to speak to you of Horace Binney.

He was born in Philadelphia on the 4th day of January, A. D., 1780, in a house belonging to Thomas Williams, in what was then known as the Northern Liberties, and in the neighborhood of Front and Coates streets. He was of Scotch and English descent. The earliest paternal ancestor of whom he had knowledge was John Binney, who, in 1680, resided with his wife Mercy, in the town of Hull, Boston Bay, in England, and from whom he was the fifth by descent in right line. The family came to this country about that time and settled in Hull, Massachusetts. The grandfather of Horace was Barnabas Binney, a shipmaster and merchant of Boston, and his father (born in 1751,) named also Barnabas Binney, was a surgeon in the revolutionary army, attached to the Massachusetts line, whence he was transferred to the Pennsylvania line. After his transfer he settled permanently in

Philadelphia, and, in 1777, he married Mary, the eldest daughter of Henry Woodrow, a man of Scotch ancestry, a whig in politics, of great purity of character and uprightness of life. Dr. Barnabas Binney was a man of liberal education, and a graduate in 1774 of Brown University, where he attained the highest distinction in his class. Thence he came to this city, and attended medical lectures at the University, in due time receiving from it a degree. He was an accomplished "belles-lettres" scholar, and acutely sensitive to the beauties of English literature. He wrote with ease and elegance, and he cherished both the taste and the talent for poetical composition. Withal his intellectual powers were fine, and he had a strength of principle, a decision and energy of action, and a sensibility and tenderness of feeling that commanded the respect of all who knew him, and greatly endeared him to the circle of his domestic friends.

Dr. Binney's wife, the mother of Horace, was also a superior person. In many points her intellectual traits and those of her husband were much alike. She had besides a keen perception and taste for wit and humor, and a remarkable faculty for catching and imitating personal peculiarities of manner, voice, and almost of look. In the character of her mind there was a large element of the dramatic. Her manner was impressive, and she had that rare union of dignity and ease which woman alone possesses, without the appearance of effort, and which she only can teach.

At the age of six years, Horace was sent to his first school, which, for a short time, was the Friends' Alms House School, in Walnut street between Third and Fourth. Very soon afterwards, he entered the Grammar school of the University of Pennsylvania, where he remained until his father's death, which occurred in 1787. Thus early, when only seven years of age, he was left an orphan, in charge of a widowed mother. In 1788 he was placed in a school at Bordentown, New Jersey, where he continued three years, and acquired the reputation of being the best scholar in the school; beginning thus early to give promise of what he afterwards became. His attainments in knowledge of the Greek language especially, must have been remarkable for a youth of only ten or eleven years. And not only was his scholarship of an high order, but his conduct was such as to commend him to the confidence of his teachers, for he was promoted to be "guider" of boys older than himself.

Leaving Bordentown in 1791, he returned to his mother's residence, in Philadelphia, then on Market between Fifth and Sixth streets, immediately opposite the residence of General Washington, and adjoining that of Alexander Hamilton. There he frequently saw the first President of the United States, as also Mrs. Washington, who was his mother's friend, of both of whom he had perfect recollection throughout his life. There he was also a witness of the ceremonies of the day; imposing ceremonies, which were remnants of

colonial usages derived from the mother country, but which long since went into desuetude. What effect such associations and opportunities had upon his youthful mind, never wanting in a pure and generous ambition, may readily be conjectured.

In 1791 his mother entered in a second marriage with Dr. Marshall Spring, of Watertown, Massachusetts, (now a suburb of Boston,) and in 1792 he went to reside with his stepfather, for whom he ever after felt warm affection and profound respect. Soon thereafter he was sent to a boarding-school near Medford, six miles from Boston. Even then, though only twelve years old, he was prepared for admission to college, but he was considered too young to enter, and he was sent to school rather to grow older, than to increase his intellectual preparation for college life. He did not remain long at Medford, because of a conviction he had that his master was incompetent to instruct him in the Greek language. An interesting incident is related of his short school life there, illustrative of his confidence in the accuracy of his knowledge, and of his resolute adherence to that which he believed correct, even to the extent of what may be considered rudeness. On the day after his arrival at school, he was called up to recite to his new master a Greek lesson in the New Testament. He began with confidence, but he had not proceeded far when he was stopped, and told he was wrong, and what the master deemed the proper translation was given. Instead of

accepting the correction silently, he insisted that he was right and that the master was wrong. This brought immediately the rebuke, "Is this your Philadelphia politeness?" to which he replied, "It is my Philadelphia Greek, sir."

After leaving the school at Medford, he was placed in the care of a clergyman at West Cambridge, in whose family he remained until July, 1793, when he entered the Freshmen class at Harvard University, the president of which, at that time, was the Rev. Joseph Willard, D. D. and LL. D. In the autumn after his admission he unfortunately lost his mother by her death, and thus became doubly an orphan. How he acquitted himself in college is shown by the fact that on his graduation in 1797, he divided the first honor of his class with a single classmate.

It was at Bordentown and at Harvard that Mr. Binney laid the foundation on which he subsequently built his character and his fame. Protected by Divine Providence, as he was wont to acknowledge, against the perils that even then beset the paths of young men in a college course; having an ardent desire for distinction in his class, a desire which forbade any deviation from moral rectitude, and sternly resisted every temptation to indolence, or vicious indulgence; he secured for himself all the advantages of mental and moral culture, which the most advanced collegiate education in this country could then give. Through his entire college life his intercourse with the officers of

the institution was one of one uninterrupted respect on his part, and of affectionate confidence on theirs. Knowledge, of course, he acquired, but that was the least of his acquisitions. He acquired the art and the habit of study, with an unfading love for it, and this acquisition was permanent. It continued to be his delight and a great element of his power until the close of his life. Never for a moment did he make the mistake, into which so many fall, of considering the *primary* object of a liberal education to be securing a knowledge of facts, or of arts, or of sciences which might be useful in after life. This knowledge he knew would decay. He sought and he obtained the "art of all arts the best,"—that of setting the mind intently upon a subject of thought, and holding it there until the subject is thoroughly understood.

This power or art of study which he acquired during his college life, he ever regarded as his most important gain, and many years afterward he spoke of it as such. Much of what he acquired he said he had lost. His knowledge of the Latin and Greek classics, as well as of the higher mathematics, had fallen away from disuse, though he had preserved enough to assist his children in their education, "but," he added, "the ununfading art which I acquired at college was that of study, and if the acquisitions of knowledge I then made by it are faded, or fallen from the surface, * * certainly the art or faculty of study has never left me." His appetite for study while he was in college was so

great, that on one occasion, instead of going to his stepfather's, where he was always happy, he remained in his chambers in one of the college buildings during an entire autumnal vacation, and studied every day of it fourteen hours. Habits and tastes like these were his constant shield, as well as his instruments of power; and long after his graduation he was able to say, "I look back to my college life with great satisfaction. I was a fair student of everything I was required to learn, and it does not now occur to me that I ever missed a recitation, or the chapel service at six in the morning, winter or summer. * * I have no recollection that during those four years I ever did a thing to make my friends blush, and their praises when I left college gave me courage to begin my first steps in the world."

During the year immediately preceding his graduation he began to look forward to his life work. His father and his step-father having been physicians, it was to be expected that his attention would be turned to the profession to which they had belonged. Accordingly he felt a strong desire to study medicine and surgery, and he attended a course of lectures on anatomy delivered by Dr. Warren, the father of one of his favorite classmates. He also read some medical books. But his step-father earnestly dissuaded him from attempting the profession, and induced him to give up all thought of it.

After his graduation in July, 1797, he remained in

the family of an aunt in Providence, Rhode Island, about three months. During the summer and autumn of that year, the yellow fever prevailed in Philadelphia. In November he came to Philadelphia to make it his permanent home, still undecided what employment he would select, but fitted in an unusual degree to enter upon any line of life, and to make for himself a place and a name. No thought of rest or of self-indulgence after his four years of intense application, diverted him from an earnest purpose to do what he could. He had been turned away from the profession for which he had a decided preference, and to which all his reading that was not scholastic had been directed. He felt no special attraction to any other, and the uncertainty of success in the legal profession, of which he had heard much, made him hesitate to select that. Without much reflection, therefore, he turned his attention to mercantile life, and requested Dr. David Jackson, his guardian, to apply to Cunningham and Nesbit, a firm of large shipping merchants in this city, to receive him into their counting house as an apprentice. Fortunately for himself, fortunately for the bar, and fortunately for the country, the counting-room was full, and the merchants had no place for him. It was then he made choice of the legal profession, and at his instance Dr. Jackson requested Mr. Jared Ingersoll to receive him into his office as a student of law. Mr. Ingersoll consented, and thus the work of life was determined. So narrowly did he escape a calling, to which he was

apparently not best adapted, and so Providentially was he led into the profession which he subsequently so much adorned. He had no friends in Philadelphia to advise him, none, at most, sufficiently acquainted with his peculiar qualifications to advise him judiciously, though he had been told by his step-father that if he selected any of the learned professions, it ought to be the law.

Among his fellow students in Mr. Ingersoll's office were John B. Wallace, who afterwards married his sister, and John Sergeant, both young men of remarkable mental force, and of indomitable ambition, and both of them were, from the commencement of his apprenticeship, his life long friends. Somewhat later he contracted an intimate friendship with Mr. Charles Chauncey which continued unbroken until the latter's death.

How faithfully he improved the opportunities which Mr. Ingersoll's office afforded him may be inferred from what he had done in college, and may be known from what he was after his call to the bar. He had learned to study, and in study, not in mere reading, he found his chief delight. Of course to him the new science to which his attention was directed, presented attractions above everything else. His steadfast effort was to learn his profession accurately. With this he suffered nothing to interfere, and he firmly resisted all the social temptations which assail young men in large cities. He had resources for recreation within himself.

He was extremely fond of music, playing well upon the flute, and singing with great sweetness of voice. Indeed, to the last days of his life music was to him a great joy, and in the education of his children he sought attentively to give them musical accomplishments. The two years and more which he spent in Mr. Ingersoll's office were passed with great advantage to himself, and he never forgot the debt of gratitude he owed to his preceptor. In after years he paid it to that preceptor's memory in a manner that delighted the bar, and set up an enduring monument of his own respect and affection.

Having completed his apprenticeship, Mr. Binney was admitted to the bar of the court of Common Pleas on the 31st day of March, 1800, though he was then but little over twenty years of age, and at the March Term of 1802 he was admitted to the bar of the Supreme Court of the State. At the time of his admission the Supreme court consisted of Shippen, Chief Justice, and Yeates, Smith and Breckenridge, associate justices. Before these men he made his first appearance in the highest court of the State, and from them he received a kindly treatment that he never failed gratefully to remember.

In the year 1800, and through the early part of this century the eminent men who led the legal profession in the city were William Lewis, Edward Tilghman, Jared Ingersoll, William Rawle, William Tilghman, and Alexander James Dallas. To these may be added Mr.

Duponceau, distinguished especially by his knowledge of admiralty law. They were men of varied accomplishments, but they were all men of power, conspicuous in the city and throughout the State, and to them was entrusted nearly the whole of the important legal business of the community. To a young man just entering the profession, the prospect of success in obtaining employment may have seemed gloomy. The business community, who most need the assistance of lawyers, were supplied, and well supplied. There seemed to be no room for other lawyers, and those who occupied the field were too strong in themselves, and too strongly entrenched in the confidence of the public, to be displaced. In truth, however, the circumstances that might have been thought to interpose almost insurmountable obstacles to professional success were adjuvants to it. The well-prepared and ambitious young men, who, on their admission, found at the bar a body of practitioners so eminent as were those I have named, monopolizing the honors and the emoluments of the profession, were taught at once to lift their own standard high. They learned that no moderate attainments, no half-hearted efforts, no imperfect preparation would meet the necessities of their case. They grew indeed for a time in the shade, but it was a healthy shade. The exhibitions of mental power, of legal learning, and of professional skill which they constantly witnessed were instructive to them, the subjects of their thought and conversation, and incentives

to severer study. It cannot be doubted that no inconsiderable portion of the power and skill of Mr. Binney, Mr. Sergeant, Mr. Chauncey and others who honored the Philadelphia bar, and gave it a wide reputation during the first half of the present century, was due to the fact that at the commencement of their professional life, they were introduced into association with the leaders of the old bar, a body of men who would have graced Westminster Hall in its palmiest days. They may have thought their apprenticeship hard and long, but it yielded abundant fruit.

Mr. Binney was not discouraged by the outlook. With a resolute will, with patient waiting, and with unintermitted devotion to study, he bided his time—and it came. His success in obtaining employment was not speedy. For six years after his admission to the bar, he had a most meager clientage, and, as he remarked afterwards, his porridge would have been very insipid, if he had had to buy salt for it with what he made at the bar. But the time was not lost. He employed it largely in waiting upon the courts, and watching the course of trials, a practice which he afterwards often commended to young men, assuring them that, if attentive, they would learn as much in court as they could in their offices, during the same hours, and that what they learned would be more useful to them in acquiring the art of managing causes.

In April, 1804, he was married to a daughter of Col. John Cox, of Trenton, New Jersey, an efficient officer

in the quartermaster's department during the revolutionary war, and the union thus formed continued through the long period of sixty-one years, until her death.

In the year 1806 he was elected a member of the legislature of the State. He served as such, however, but a single year, declining a re-election. While he was a member, one or two memorials of the Chamber of Commerce and one for the incorporation of The United States Insurance Company were committed to his charge. These brought him into association with the merchants and underwriters of the city, and so satisfactory was his management of the trusts committed to him, that immediately after the close of his membership much professional business relating to insurance flowed in upon him. To Mr. Edward Tilghman, one of the leaders of the "old Bar," he was indebted for his launch into this department of practice. Mr. Binney has himself given an account of his start in his most interesting sketch of three of those leaders. The case committed to his sole charge by the advice of Mr. Tilghman was "Gibson vs. The Philadelphia Insurance Company," reported in 1 Binney, page 405. It was one of difficulty, and it involved the application of principles not familiar to most members of the profession even at the present day. The report shows that it was very ably argued by him, and with success. It was the second case which he argued in the Supreme Court of the State, and it was the beginning

of the large success for which he had waited so long, and for which he had made such thorough preparation. The insurance business was never, perhaps, better, at any time, or at any bar, than it was in Philadelphia, from 1807 to 1817, including the ten years between his substantial entrance into practice, and his attainment of the full reputation and employment which he held undiminished during his continuance in professional life.

In these years, pressingly engaged as he was in professional duties, he prepared and published his six volumes of reported decisions of the Supreme court of Pennsylvania, covering the period from 1799 to 1814. To this work he was invited by Chief Justice Tilghman, soon after his return from the legislature. That he received the invitation from such a source, before he had obtained any considerable practice, and when he was only twenty-seven years old, was a very high testimonial to the confidence which his abilities, his culture, his habits and his character had won for him in the best quarters. Mr. Edward Tilghman's faith in him, as exhibited in the incident to which I have referred, illustrates the respect he had gained from the leaders of the "Old Bar," whose judgment was not likely to err. Of his reports I must make only brief mention. Fortunate would it be for any court of last resort, and fortunate for the legal profession, if all reports had equal merits. Certainly throughout the six volumes the reporter gave irrefragable proofs of his

ability to comprehend legal arguments, and to restate them with clearness in a condensed form. His analysis of the facts upon which the judgments were rendered, was rigid and accurate, and his head notes expressed exactly what the court decided No complaints have ever been made that his syllabus was not sustained by the case. When the reports came from his hands they left nothing to be desired. They must always be regarded as the work of an accomplished lawyer. It is not an easy matter to report well, and it is very rare that any reporter gives full satisfaction to the court and to the bar. The art requires not merely fairness, accuracy, and ability to comprehend what was argued and decided—it requires all that and more. It demands ability to gather from the mass of facts in the record those that really constitute the case, and to state them lucidly, omitting all that are not material, and overlooking none that are. It demands also power to extract from the opinion of the court the legal principles adjudged to be applicable to the facts, and to restate them in short, and with perfect accuracy. By the universal judgment of the profession, such a reporter was Mr. Binney. His authorship, as a reporter, ceased in 1814 on the publication of his sixth volume.

After 1807 his professional engagements were very large, not only in insurance cases, but in all kinds of important business. He seemed to pass at one bound from his long apprenticeship in waiting into acknowl-

edged leadership. He divided the business of the courts with the eminent men who, when he came to the bar, held all that was worth holding. How great his share became, and how completely he won the confidence of the business community, as well as that of his professional brethren, may, in some measure be discovered by an examination of the reported decisions of the Supreme Court of the State, of the Supreme Court of the United States, and of the Circuit Court of the United States for this district. His work appears in Binney's reports, in those of Sergeant and Rawle, Rawle, Penrose and Watts, William Rawle, in Washington's Circuit Court reports, and in those of Cranch, Wheaton, and Howard. His engagements in the local courts, and in his office were correspondingly large.

He was favored by the privilege of conducting most of his cases, and making most of his arguments in the Supreme Court of the State before a Chief Justice who presided there more than twenty years while he was in full practice, and for whose abilities and personal character he had unbounded veneration, and even affectionate regard. He knew also that he in turn enjoyed the fullest confidence of that most excellent magistrate. The advantage of such relations between an advocate and the court he addresses can hardly be over-estimated. In the Federal Circuit Court for this district, where Judge Washington presided, about thirty years, and in the Supreme Court of the United States under Chief Justice Marshall, he enjoyed similar advantages.

I do not propose to call your attention to any of the cases in which he was engaged, though many of them were of much interest. Grateful as the work would be, I have not time for its performance.

In reference to his arguments, however, I make a single remark. Some of them have been preserved by the reporters in a condensed form. To estimate them justly they should be compared with the condition of legal knowledge and legal reasoning when they were made. And when thus compared, many of them, I think, will be found to have been, in exact exhibition of legal principles, and of the reasons upon which those principles rest, much in advance of what was generally known, and in advance even of what had been expressed in judicial decision.

The war of 1812 brought with it the usual fruits of war: destruction to commerce, embarrassment to trade, rash speculation, and consequent profit to the members of the bar. Unhappily their direct interests are rarely injured by national adversity. This, perhaps, is one of the "principal deductions from the general popularity of the profession, and one of the reasons why it receives more respect than love," without fault of its own. Mr. Binney shared largely in that profit, and the close of the war in 1815, found him in possession of all that the profession of law could give to its professor, whether of reputation or emolument. The eminent leaders of the bar, whom he encountered at his entrance into the profession, had, in a great

degree, retired from active business, and, soon after, most of them departed from life. The field was clear, and, with the exception of Mr. Sergeant and Mr. Chauncey, his constant friends, he was almost without a rival. But this caused no relaxation of his energy. The habits he had formed in college, his love of study for study's sake, and his deep-seated convictions of duty to his clients, with an ever-abiding sense of obligation to them, overcame all tendency to inertness, if any ever approached him, and he continued till the close of his professional life as heartily devoted to it, and as mindful of its claims, as he was in the first flush of his manhood.

He had one cardinal principle upon which he always acted, and which he regarded as the secret of his success. It was to attend to no calling but his profession, knowing that if that were attended to, it would do all for his family and enough for himself. He listened, no, not for a moment, to any invitations, (and many were given him,) to speculate in stocks, or in real estate, or to take part in any kind of trade. He felt it impossible for him to do so without neglecting the practice of the law, which, if faithfully pursued, he was assured would be better than any, or all things else. Guided by this principle he resisted calls to public life. Before he was fifty years old, he had been twice offered a seat on the bench of the Supreme Court of the State, and once, at least, if not twice, he was tendered a commission to be a judge of the Supreme Court of the

United States. All these offers he promptly declined. It was not because he did not value distinction, and not because he did not know his own superior fitness for the posts offered, but he valued excellence above place, and his chosen road to excellence was the path he had marked out for himself at the commencement of his career.

Yet, though he would not suffer himself to be diverted from entire devotion to his profession by office, or by seductive hope of gain in other directions, he did not decline calls that he thought consistent with that devotion. In 1808, when only twenty-eight years of age, he was chosen a director of the first bank of the United States. This appointment he accepted, and he continued to act as a director and a trustee very many years. It was in the service of the bank he argued his first case in the Supreme Court of the United States. The case was The Bank vs. Deveaux et al., reported in 5 Cranch, page 61. No one can read his argument, condensed as it is in the report, without admiring its orderly arrangement, its reach and its logical power. It was the effort of a lawyer well trained and well furnished.

In 1827, Chief Justice Tilghman died. He had in 1806, succeeded Chief Justice Shippen in the headship of the Supreme Court of the State, and he remained its head during the long period of twenty-one years. It was under his administration that the law of the State had grown into an orderly and well adjusted sys-

tem, that the common law of England had been accommodated to the novel circumstances of our people, that the land laws of the State had been reduced to an intelligible code, that our mingled system of law and equity had been developed, and that many of the most important rules of property had been established. To the work of educing such results he was admirably adapted by the structure of his mind and its high culture, by his wise and broad common sense, by the comprehensiveness of his views, by his conscientious devotion to his official duties, and by a purity of character that never bore a spot. He was a man after Mr. Binney's own heart. They were kindred spirits. Under his administration of the law, Mr. Binney had grown into all his greatness and fame, and he felt, as few could feel, how great a debt of gratitude the bar and the state owed to the memory of the deceased magistrate. No wonder then, that, when invited by the bar to pronounce an eulogium of the Chief Justice, he poured out from a full heart, and from the stores of an accurate and discriminating observation, the remarkable discourse contained in the 16th volume of Sergeant & Rawle's Reports. It was not the utterance of respect and affection alone. The discourse exhibits a careful analysis of intellect and character, a just appreciation of what gave to the Chief Justice his power and his usefulness, and an admiring estimate of his moral worth. It is a photograph of that great and good man so life-like that it cannot deceive, so deeply

wrought that it cannot fade, and rendered doubly attractive by the inimitable style in which it was executed.

About the year 1830, after severer exertions than were usual, Mr. Binney's health began to be impaired, and he desired to withdraw gradually from the courts, and throw off, in considerable measure, the load of business with which he was oppressed. It was this, in part, which made him willing to accept a nomination for Congress. There were doubtless other reasons that influenced him. Principal among these was the hostility of President Jackson to the Bank of the United States. His veto of the bill for its recharter in 1832, aroused the deepest feeling of its friends, who then constituted most of the business community of this city. Mr. Binney was one of the number, and his transcendent ability, together with his well-known knowledge of the condition and operations of the bank, pointed him out as the best man to defend the institution in Congress. All eyes turned to him, and his services were at once demanded. Believing as he did in the great usefulness of the bank, and in its necessity for the public welfare, he did not feel at liberty to decline the call. He was elected, and he took his seat as a member of the twenty-third Congress on the 2d of December, 1832. That Congress was filled with distinguished men, many of them, longed trained in the public service. Mr. Binney took into it a great reputation, such as few lawyers ever brought into Congressional life. Much was expected from him, and all

that was expected was realized. If he found any equal, he found no superior. He never stooped to the arena of partisan discussions, but in the consideration of important subjects, especially that of the removal of the public deposits from the Bank of the United States, he proved himself to be a statesman of high rank, and a most accomplished debater. Though but two years a member, he has left at Washington a most enviable reputation. The old men who naturally recur to olden times, speak of him as one of the giants of the past, and worthy to be associated as a statesman and an orator with the triumvirate that so long adorned the American name.

But public life was extremely distasteful to him. He turned his back upon it with gladness "Public reputation," said he, "is generally empty, and oftentimes false, but the respect and affection of one's own kindred and personal friends, ah! that is delightful." Declining a re-election, he returned to Philadelphia, and retired from all professional practice in the courts. In the year 1836 he went to Europe because of the ill health of a member of his family, and only once thereafter did he ever appear in any court as an advocate or a counsellor. He continued, however, to give opinions in his office until 1850. Many of these opinions, written by him, are still in the hands of members of the bar, and they are preserved with almost religious care. They relate to titles to real estate, to trusts and uses, to commercial questions, and to all

questions in every department of the law, that are most intricate and difficult of solution. They are model exhibitions of profound and accurate knowledge, of extensive research, of nice discrimination, and of wise conclusion. They have been generally accepted, as of almost equal authority with judicial decision, and not unfrequently, a claim set up with confidence has been abandoned when it became known Mr. Binney had given an opinion adverse to it.

In the year 1835 he was invited by the Select and Common Councils of the city, to deliver a discourse on the life and character of Chief Justice Marshall. That distinguished magistrate had shortly before gone down to his grave, full of years and of honor, and had left behind him a nation of mourners. He was appointed Chief Justice of the Supreme Court of the United States, by President Adams, in January, 1801, and he continued to preside in that Court during the long period of thirty-four years.

Providence smiled upon our infant nation when he was appointed. The Constitution was then an untried experiment. It had no precedent. It remained to be interpreted, and what principles of interpretation ought to be applied to it, whether a strict or a liberal construction should be adopted, or whether a more rational view should be taken of it, one neither strict nor liberal, but consonant with the paramount intent of those who framed it, and necessary to secure the objects for which it was designed, remained to be determined. It

was quite possible to make a mistake, and mistake might have brought early shipwreck to our institutions. Happily, Chief Justice Marshall proved himself equal to the demands of the time. Aided by associates, themselves able, but who deferred much to his judgment, he laid down principles for constitutional construction which have made our government what it is; which have been accepted since his death without question, and which have given stability and efficiency to the Federal Union. With sufficient knowlege to meet the necessities of his position, with powers of reasoning of the highest order, with a comprehensiveness of view rarely equalled, and with a patriotism that never faltered, he met the questions presented, and did his great work. To use the words of Mr. Binney, "He looked through the Constitution with the glance of intuition. He had been with it at its creation, and had been in communion with it from that hour, * *. Both his judgment and affections bound him to it, as a government supreme in its delegated powers, and supreme in the authority to expound and enforce them, proceeding from the people, designed for their welfare, possessing their confidence, representing their sovereignty, and no more to be restrained in the spirit of jealousy within less than the fair dimensions of its authority, than to be extended beyond them in the spirit of usurpation. These were his constitutional principles, and he interpreted the Constitution by their light." The life and services of such a man were a theme worthy of Mr.

Binney's powers. How well he performed the duty assigned to him, I need not say to the bar of this city who heard him, or who have read his discourse. He performed it "con amore." He knew the Chief Justice well. He accorded with him in his principles, admired his private character, and reverenced his judgments. In him he found powers and principles like his own, and by his eulogy he spread, in clearest light, before those who heard him, the qualities of mind and heart that made the Chief Justice both great and good. He depicted in unfading colors what the great magistrate had done, and held him up to that age and to all future time as an immeasurable benefactor to the country.

In 1844, by appointment of the City Councils, Mr. Binney argued in the Supreme Court of the United States, the case of Vidal *et al. vs.* Girard's executors (reported in 2 Howard, p. 127), in which was involved the validity of the trust created by Mr. Girard's will for the establishment and maintenance of a college for orphans. The case had been argued at a previous term, by Mr. Sergeant, and it is said that, discouraged by the apparent uncertainty remaining in the minds of the judges, he asked for a re-argument. Whether this was so, or not, a re-argument was ordered, and Mr. Binney, though years before he had withdrawn from the state courts, accepted the appointment of the City Councils, and argued the case anew. Of his argument I have no space or time to speak as it deserves. The

remembrance of it lingers around the court room until this day. It is in print, and it has ever been the wonder and the admiration of the legal profession in this country, and almost equally of the profession in Great Britain. It lifted the law of charities out of the depths of obscurity and confusion that covered it before, and while the fullness of its research and the strength of its reasoning were masterly, it was clothed with a precision and beauty of language never surpassed. No wonder it was successful. It was a fitting close to a long and pre-eminent professional life. Mr. Binney never afterwards appeared in court, though he continued for some years to examine legal questions submitted to him, and to give written opinions. At length the calls upon his attention became so numerous as to be oppressive. The examinations they required were trying to his eyes, which after 1832, frequently suffered from inflammation. For these reasons, in 1850, he withdrew entirely from all professional labor. Thus relieved, his eyes recovered their strength, in good measure, and they continued to be of service to him ever after.

But, with leaving the profession, he did not abandon his habits of study. Released from the demands of a jealous and laborious pursuit, he turned with new zest to what had ever been to him a delight. He always had a vigorous appetite for the best literature, especially for that which was moral and religious, and this appetite increased as he grew older. He was a good

Spanish scholar, and proficient also in the French language. Books in both French and Spanish he was fond of reading, as also History, Metaphysics, Poetry (especially dramatic poetry), and Theology. Of the latter subject he was a close student. He was a firm believer in the truths of divine revelation and an habitual reader of the Bible. He carefully read also many of the most important opinions of the Supreme Courts of of the State and of the United States, and some English decisions. He kept himself well informed of the current events of the day, and in regard to all public questions that agitated the city, the state, or the country, he not only sought information, but he matured settled opinions. To such employments he devoted mainly his time and attention after his complete retirement from professional life. Many years afterwards, when speaking of this period of retiracy, he said "his objects had been, *first*, to keep himself from rusting out by such occupations intellectual and bodily as would keep him in reasonable tune, while the decays of age were gradually impairing the old sounding board, *second*, to continue useful to his family, as it was arriving at years of maturity, and would look for settlement in the world, *third*, to be useful to the world, so far as should be in his power, without becoming denatured, by a public part in the various avocations, religious, literary, social, political, philanthropical, national and municipal which distinguished the times from those which preceded them, and, *fourth*, to prepare for the

final event, by availing himself of all the means which God had graciously vouchsafed to him." "Progress in this sense," he added, "is private, public, temporal, eternal;" "spreads undivided, operates unspent," "comprehends the performance of all duties in such measure as is consistent with all, and ends in that perfect stature which all should endeavor to obtain, though so few attain to it."

The activity of his mind remained undiminished until his death. He was constantly occupied, though not always, in the indulgence of his fondness for reading and study. Occasionally he made a rich contribution to the enjoyment and instruction of the public. In 1849, at a meeting of the members of the bar, convened after the death of Mr. Chauncey, and at a similar meeting in 1852, soon after the decease of Mr. Sergeant, he gave utterance to his estimate of those distinguished men, with remarkable analyzation of their mental and moral characteristics, and in words all aglow with the warmest friendship. The meeting in reference to Mr. Sergeant's death was the last occasion of his distinctive association with his professional brethren. He never again appeared at a bar assemblage. Once only afterwards, (so far as I have learned,) did he allow himself to be prominent on an entirely public occasion. It was on the 22d day of February, 1860, when in response to an invitation of the City Councils, he read before those bodies assembled in joint meeting, Washington's Farewell Address. In

addition to the members of the Councils, a few invited friends were present. Mr. Binney, then eighty years of age, stood on the platform in the Common Council chamber, and read the entire address, with a firm voice, and with expressive emphasis. When he had concluded, silence ensued in the chamber, the audience evidently expecting some remarks from him. He was much affected, and after pausing awhile, he said, "and thus closes the noblest compendium of fatherly affection, patriotism and political wisdom the world has ever seen. No words of mine are fit to stand beside it." In the year 1852, at the one hundredth anniversary of The Philadelphia Contributionship for the insurance of houses from losses by fire, he delivered an address on the history of fire insurance, and upon the principles adopted by that association. Like everything which came from him, the address exhibited the completest understanding of his subject, great felicity in its mode of presentation, and a vigor and beauty of expression unsurpassable. It is read with pleasure and with profit even now. In the following year he published a valuable and suggestive article on the naturalization laws. In 1858 he gave to the public a sketch of the life and character of Bushrod Washington, a Judge of the Supreme Court of the United States, who for many years presided in this circuit with great honor to himself, and usefulness to the country. In his court, Mr. Binney had very constantly appeared, in the conduct of most important causes, and there had

grown up between the Judge and the lawyer mutual regard, and even affectionate admiration. These feelings and sentiments found unrestrained expression in the sketch, and therein also, he delineated, with his wonted acuteness, the qualities which make up a perfect *nisi prius* judge, nowhere else better, if as well, described.

In the same year (1858) he published those exquisite descriptions of three leaders of the old bar of Philadelphia, which are still read in this community with intense interest, though the men described belonged to a generation long gone past. The freedom of the writer from all envy or jealousy; the generous appreciation and acknowledgment of true and varied excellence; the searching analysis of intellect and character, and the graceful presentation of each subjects individuality which the descriptions exhibit, have compelled admiration alike in this country and in England where they were reviewed by Sir John Coleridge, with expressions of warm admiration alike of the sketches, and of the author.

In 1858, also, he gave to the press a more extended discussion, entitled "An inquiry into the formation of Washington's farewell address," which is not only curious and interesting, but strikingly illustrative of the character of his mind, and of his habits of thorough investigation, and of reasoning. It is mainly a treatment of evidence, coupled with a description of conflicting probabilities. From it one who never knew him in the

exercise of his profession, may learn how careful and minute was his search after facts, how calmly and wisely he arranged every fact discovered in its proper relation to all others, giving to each its due weight, how inevitably his deductions seemed to flow from his premises, and how precise and perspicuous was the language he employed. No one, I think, can rise from its perusal without a thorough conviction that its conclusions are absolutely correct, and that the opinions that prevailed before its publication were, all of them, more or less, erroneous.

One other product of his thoughts he gave to the public. During the progress of the civil war, the President of the United States, under the pressure of what seemed a real necessity, suspended the privilege of the writ of *Habeas corpus*, without any authority given by Congress, claiming that by the Constitution, and from the nature of his executive office he was invested with the power to suspend the privilege, in cases of rebellion or invasion. As might have been expected, his act immediately called forth much unfavorable criticism, and his power to do what he did, in the absence of Congressional authority, was in many quarters, strenuously denied—in all quarters, perhaps, at least doubted. It was then (in 1862) that Mr. Binney turned to the consideration of the subject, and gave to the public an argument in support of the power claimed by the President, not less remarkable than the best of his earlier efforts. This is not a proper occasion to pronounce

judgment upon the correctness of his conclusions. Of the argument itself, however, I may speak. It was thoroughly original, and it was constructed with a force and elegance that won admiration, even where it did not command assent. It is contained in three pamphlets published successively in 1862, and 1863. They will never cease to be regarded as models of acute reasoning applied to constitutional law.

To such labors and employments Mr. Binney devoted the later years of his life. They were happy years, crowned with habitual cheerfulness, though not unmingled with sorrow. In 1865 Mrs. Binney, his companion through all his early struggles at the bar, and through the period of his highest success, was removed by death. And in 1870 he suffered another severe affliction in the death of his oldest son, Horace Binney, Jr. That son was himself pre-eminent in mental and moral culture, in soundness of judgment, in refinement of taste, in goodness of heart, in true piety, and in all that adorns and ennobles human nature. The father and the son were companions to each other, kindred in spirit as well as in blood. Their mutual confidence was perfect, and consequently their intercourse with each other was a source of intense happiness to both. This was but a natural result of the attention the father had given to the son's training. During the four years the latter was in college, the closest intimacy was kept up between them by a weekly, and at times, a semi-weekly correspondence, in which the father encouraged the

son to perfect confidence in him, and in return gave the benefit of his counsel with a loving interest. The correspondence was never permitted to flag, though Mr. Binney was then at the height of his professional practice, bearing a heavy pressure of business both in and out of court, and superintending a large class of law students, whose examinations he always conducted with regularity and strictness. It was guided by his advice, and in the light of his example and character that the son grew into full manhood, and in the later years of his life the relations between him and his father became more than filial and paternal. They were almost fraternal. The father leaned upon the son, reposed full confidence in him, regarded him as his strongest earthly prop, and looked to him as the one to fill his place after his own last summons should come. How great the sorrow which the son's unlooked for removal, in the fullness of his usefulness, and of the high estimation in which he was held by the community, must have brought to the father's heart cannot be told. Mr. Binney was then more than ninety years old. The shock of such a bereavement might well have been fatal. But the blow did not crush him. He felt it most keenly, but with submission to the will of Divine Providence, he resolutely addressed himself to the new and unexpected duties cast upon him. These having been performed, with his attention more and more turned toward the final event that awaited him, and with a cheerfulness of dis-

position that knew no abatement, he continued to live in the midst of his books and his thoughts, the delight of his family, and the charm of all those who enjoyed intercourse with him until the 12th day of August 1875, when he peacefully passed from this life into a world where his splendid intellectual powers will forever expand, and where his moral excellence will never cease to grow.

His death occurred forty years after the age when most men are at the zenith of their reputation; forty years after he had substantially withdrawn from public view and from active participation in all matters that attract general notice, and at the end of a period when public recollection of most lawyers has faded into indistinctness, yet it would be difficult to mention a death that caused a sensation more wide spread and profound than his. Not alone in this city, or in this state was it felt that a great luminary had been extinguished, but the legal profession of the whole country acknowledged the bereavement, and many unprofessionals hastened to declare their loss.

I have thus given an outline of the life and labors of this remarkable man. In looking over it I see there is much that ought to be filled in, and some things that deserve particular notice.

He was a most accomplished lawyer. This, perhaps, might have been expected from his mental endowments, and from the habits of study that he acquired in early life. But he surpassed expectation. I

know of no language which so aptly describes him as that which he applied to Mr. Edward Tilghman, the friend of his youth: "He was an advocate of great power; a master of every question in his causes; a wary tactician in the management of them; highly accomplished in language; a faultless logician; a man of the purest integrity and the brightest honor; fluent without the least volubility; concise to a degree that left every one's patience and attention unimpaired, and perspicuous to almost the lowest order of understanding, while he was dealing with almost the highest topics."

He had great advantages, none of which were neglected. Besides the opportunities his collegiate course afforded him, and which he improved to the uttermost, besides the art and habit of study he early acquired, he had examples of excellence before him which it was not in his nature to disregard. He was trained to be a legal tactician by his constant attendance in the courts before he was called to assume the management of causes. He thought logically and spoke and wrote the purest of English before he came to the bar. He had a fine commanding person, an uncommonly handsome face, a dignified and graceful manner of address, and a most melodious voice, perfectly under his control, and modulated with unusual skill. He was constitutionally an earnest man, yet while earnest, he had a calm self-possession, the fruit of consciousness that he fully understood his subject, and of confidence that he could make

others understand it, and he entered upon the trial of his causes with a sure conviction, confirmed by his previous study, that he was advocating the right. No unjust or dishonest case would he willingly undertake, and he was able to say after his career at the bar had closed, that "he had never knowingly committed an injustice toward a client, or the opposite party, or prosecuted a cause that he thought a dishonest one, and that he had washed his hands of more than one that he had discovered to be such after he had undertaken it, as well as declined many which he perceived to be such when first presented to him." Add to this the power of a mind equal to the comprehension of any legal subject; a mode of presentation the best possible; a rhetoric that was faultless; an aptness of illustration that illuminated the most abstruse matters; a personal character without a visible flaw, and it is easy to see he must have been, as he was, a most persuasive and convincing advocate.

He won the confidence of courts and juries by his entire freedom from trick, or any of the low arts of cunning. He disdained to practice any stratagem or artifice for the purpose of obtaining an advantage over an adversary. His nature was true, and his life was truth unfolded. He was always candid, giving full consideration to whatever made against him. He appealed to no prejudices, but rather boldly met, and endeavored to dissipate them. He was ever courteous in his demeanor towards the court, and towards his op-

ponents. Thus every element of power, in mind, in culture, in habit, in physical endowment, in taste, in demeanor, and in character, was his. All united in giving to his forensic efforts an efficiency, and a success inferior to those of no other. Our brethren that remain, who saw him at the bar, speak of him as ever maintaining a dignified decorum, and a manner not reserved or cold (though perhaps apparently such at times), but genial and good humored toward his professional brethren, and respectful to the bench. They speak of him as above the suspicion of rhetorical arts, or partisan strategy. They say his appeals were to the judgment rather than to the passions; that his action was graceful; that he never sought to make a display of oratory though he was always eloquent in thought, and winning in diction. He was never heard without instruction, never without pleasure.

He had some other characteristics that deserve special mention. In everything he undertook he was thorough to the highest degree. Thoroughness was a habit of his life. He brought it to all his investigations, and he regarded it as a duty never to be slighted. In his view it was criminal to neglect the fullest possible preparation for the trial of every cause committed to his care, or for any opinion he was called upon to give. One of his maxims, often commended to others, and always acted upon by himself was "Work up to power." Whatever came from him was, therefore, the best he could produce, and those who

followed him rarely found any thing that had escaped his notice, or his thought. What he did not make use of was, in his judgment, of no importance, and therefore entitled to no consideration. It was not unnoticed because unknown. And it was never safe to treat as of little worth any position he took. His mind at once seized all the facts and the principles applicable to them, and discarded all that, after careful thought, he deemed immaterial, or inapposite. He was never surprised by any thing against which the extremest vigilance could guard. Hence nothing immature, nothing unfinished ever came from him in argument, or in essay. Nor was he thorough only in his profession. He carried the habit into his general reading, both literary and scientific. Whatever he knew, he knew throughout. No chamber of it, however remote, escaped his exploration. He gathered from every book he read all the thoughts worthy of being preserved, and made them subjects for his own reflection, recurring to them from time to time for renewed consideration.

His reading was so extensive that he made constant use of helps to return to passages which had most interested him. He was therefore a great admirer of a good index. I say index, not digest. His estimate of such an index was expressed in a letter to a friend, written when he had passed his eighty-sixth year, wherein he said: "I must say in reference to indexes generally, that I have come to regard a good book as curtailed of

half its value, if it has not a pretty full index. It is almost impossible without such a guide, to reproduce on demand the most striking thoughts or facts the book may contain, whether for citation, or further consideration. If I had my own way in the modification of the copyright law, I think I would make the duration of the privilege depend materially on its having such a directory. One may recollect generally that certain thoughts or facts are to be found in a certain book; but without a good index such recollection may be hardly more available than that of the cabin boy, who knew where the ship's tea kettle was, because he saw it fall overboard. In truth a very large part of every man's good reading falls overboard, and unless he has good indexes, he will never find it. I have three books," said he, "in my library which I value more than any other three, except the very books of which they are a verbal index; Cruden's Concordance of the Bible, Mrs. Cowden Clark's Concordance of Shakespeare, and Prendergast's Concordance of Milton." The estimate of good indexes thus expressed illustrates how earnest was his search for truth and knowledge, and how reluctantly he let go any of his acquisitions.

Mr. Binney's thoroughness was accompanied by strictly methodical habits. He had a place for every thing and everything had its place. The arrangement of his briefs, of his papers and books, and equally of his stores of knowledge and thought was perfectly systematic. It was this that enabled him ever to pro-

duce on call, the facts of which he had acquired knowledge, and the thoughts he had matured, together with the illustrations needed, and to fortify what he produced by apt quotation of authorities.

Of his judgment, I find it difficult to speak in fitting terms. It seemed to be intuitive, yet its conclusions were cautious deductions of sound reason from a most comprehensive and accurate view of the facts, alike in detail, and as a whole, and from a wise selection of the principles properly applicable to the state of the facts as he found them. He brought to every subject submitted to him the calmest consideration, unbiassed by prejudice or pre-conceived opinions, and he gave true weight to whatever bore upon it. Hence the decisions of his judgment were never narrow, and almost never wrong. He was a most wise and safe counsellor at the bar, and in every circle where his counsel was sought.

He was a man of great moral courage. When he had matured his convictions of the right, he was not to be driven from their avowal by any fear of consequences. He was a resolute and fearless supporter of law and order in the community. When the Kensington riots threatened to uproot the foundations of society in the northern part of the city; when the law was temporarily overthrown, and its officers were powerless to resist the outbreak; when "men's hearts failed them for fear," and many thought only of submission or compromise, he stood firm. He bent not be-

fore the storm. It was he more than any other who inspired confidence. It was he that restored courage to many who were faint-hearted; that gathered around him the virtue and intelligence of the city, and led in bringing back the supremacy of the law. And when, in later years the foundations of our government seemed crumbling away; when civil war threatened the subversion of our cherished institutions; when attachment to party, with very many, prevailed over love of country, Mr. Binney, an old man of more than fourscore, stepped forward, and placed all his influence and the weight of his great name in the scale of a tottering government. Nor was there ever an occasion when high moral courage was demanded, when the city was in trouble and needed a leader and adviser, that he was called upon and failed efficiently to respond. He was often resorted to in seasons of perplexity, and never was application made in vain. Even when not consulted, the friends of good order, and of the right were encouraged by the fact, of which they needed no other evidence than his life, that he would always be found on the side of the just, the orderly, and the true.

Though he was not long in official life, he gave the fullest proofs that he was both a patriot, and a statesman of high order. The evidence is to be found in the opinions he expressed in Congress, and in those which from time to time he gave to the public while he was in private life. He understood thoroughly the organi-

zation and action of both the State and General Governments, and he was familiar with the whole science of constitutional law. He was in the main a conservative, though not averse to healthy progress. According to the division of parties existing soon after the adoption of the Federal constitution, he was ranked as a Federalist. He adopted the views of the constitution held by Washington, Hamilton and Marshall. To these he adhered during his life, and he made no secret of them when they became unpopular. On the 14th of January, 1872, when writing to a friend, he said: "You know I am the residuary legatee of Washington Federalism. I am not, however, without a great many younger men who are *haeredes instituti*, though *post nati*." But, though a conservative, he approved of changes that he thought improvements. He did not think all changes progress, though he recognized that progress means change. He conceded that the advance of civilization demanded a change of laws in many particulars, and of organic law in some. Still he was not a friend to any changes hastily made; changes that might bring evils in their train not less than those they were intended to cure. Not lacking confidence in the masses of the people, he yet thought it a great mistake to subject the judiciary to dependence on a popular vote. With a high estimate of its importance to the stability of our institutions, and to the correct administration of law between man and man, he deprecated every scheme that threatened diminution to its

independence, and tended to drag it down into the mire of party politics. He favored the consolidation of the City of Philadelphia, as tending, in his judgment, to the promotion of good order, and to the general reform of subsisting abuses, and he lent his influence to send to the Legislature the men of "experience in civil affairs, of general knowledge, talents, integrity, moral courage and conscientiousness" through whose agency consolidation was effected.

Immersed as he was all his life in a flood of occupations, and unwilling while he was engaged in the practice of the law, to be diverted from it by any hope of gain to himself, he felt a deep interest in many institutions cherished by the community, and in many of our noblest charities. He was one of the originators of the Academy of Fine Arts, and with forty other members of the bar he signed the articles of association. William Lewis and Judge Tilghman were also among the signers. Mr. Binney was the youngest. He was present at the first meeting in the Hall of Independence, to choose officers, and to launch the constitution of the society, and there he made an address. He was early connected with the Horticultural Society, and he was a member of the Franklin Institute and of the American Philosophical Society. He presided many years over the Apprentices' Library Company. He was long a director of the Pennsylvania Institution for the deaf and dumb, and he was a contributor to the House of Refuge. He felt great interest

in savings institutions, and in all agencies adapted to promote the thrift and comfort of persons in humble life, and he was associated with other public charities. He was also deeply interested in the benevolent institutions of the Church, to which he belonged, giving to them much of his time, his matured wisdom, and his pecuniary support. The most delicate, refined, and unostentatious charities seemed most to enlist his sympathies. He was a member of the corporation for the relief of the widows and children of clergymen in the communion of the Protestant Episcopal Church from 1831, until his death, and much of the time its President. To it, and to all other associations with which he suffered himself to be connected, he gave much more than his name. He gave his sound judgment, his wise counsels, and, whenever needed, his labor and his money. Their records are full of the evidences of his efficient services, and the touching minutes adopted by them after his decease, attest the value of his co-operation, and the strong hold he had upon the reverence and affection of his associates.

Mr. Binney's friendships were warm, and they were lasting. No envy or jealousy interfered to disturb their harmony. If ever broken, it was because his confidence was necessarily withdrawn. His addresses after the death of Mr. Chauncey, and Mr. Sergeant bear witness to the intensity of his affection for those friends, though more than all others, they had been his

rivals, and often opposed to him in the strife of the bar. In the last year of his life he said in a letter to a life-long friend "my wishes for your happiness are as constant as the return of my days." The tenderness of his love for children was remarkable, and it was often demonstrated. His affections never ceased to flow in warm currents towards the descendants of the friends of his youth, and he found some of his choicest pleasures in contributing to their happiness. His letters abound in outgushing sympathy with the joys and sorrows of the young, as well as with those of his older friends.

Of the light he was in his own dwelling, of the wealth of affection he exhibited there, and of his devotion to the happiness and to the mental and moral culture of his children, I will not speak.

He was an admirable conversationalist and correspondent. His mind and his memory were so full of the richest thoughts that they overflowed into his conversation and into his letters of friendship, and his power of expression was so ready and so chaste, his pleasantry was so genial, and his moral sentiments were so pure, that those who enjoyed correspondence with him will ever preserve his letters among their treasures.

It would be interesting to speak of the stores of observation gathered into his memory during his long life, and ready for his recall. He lived more than ninety-five years and a half, longer than any celebrated

lawyer of whom I have knowledge, either in this country, in Great Britain, or on the continent of Europe. He lived with unimpaired mental faculties, and generally in the enjoyment of good health, preserved and confirmed by temperate habits and regular bodily exercise. His adult life extended over the first three quarters of the present century, a period of advance, not of retrogradation. In it the world saw most remarkable changes. Empires rose and fell. Many new kingdoms and governments were established. Constitutional law made wonderful advances, and municipal law was accommodated to an altered condition of human affairs. The mechanical arts made unprecedented progress. New powers and agencies were discovered, more potent than any before known, and applied to daily use. Religious toleration advanced to be an accepted doctrine, and popular education came to be regarded as of inestimable importance. Society in very many particulars, was revolutionized, and civilization achieved greater triumphs than in any former equal period of the world's history. Of all these changes Mr. Binney was an attentive observer. It was not in his nature to be indifferent to them. He not only noticed the progressive changes, but he must have considered their causes, and their probable consequences. He was himself a link that connected the men of the revolution with the present generation. What an ocean of thought the events and changes of his life-time spread out before his declining years! And

how suggestive the memories must have been! But I may not pursue this speculation.

One other and the crowning glory of his life and character remains to be mentioned. He was an earnest Christian. I have already said he was a close student of Theology, a firm believer in the truths of Divine Revelation, and an habitual reader of the Bible. His confidence in the Divine inspiration of the Bible began in his youth, and gathered strength with his increasing knowledge of what it contains. He was a consistent member of the Protestant Episcopal Church, and he carefully trained his children to the reverence and love he had for its liturgy. For many years he was a leading member of Episcopal Conventions, and and he made himself greatly useful in them. He was more than a Church member and a Church officer. He carried his religion into his daily life. It was a controlling power in his business, in the formation of his judgments, and in his intercourse with others. It was the basis of his fidelity to his clients, and of his unwillingness to do injustice to opponents. It led to the courtesy of his demeanor, and to his habitual candor. It contributed also to his personal enjoyments. He found great satisfaction in the study of religious books, especially those relating to doctrinal theology. "He loved to bring his reason to the support of his faith, and he delighted in the most cogent arguments in support of Christianity." His mind was at all times a reverent one. He discountenanced, systematically, in

his household, all conversation and every allusion that looked like irreverence on sacred subjects. More than once he brought the fine powers of his mind to the elucidation of Gospel narrative, and on one occasion he charmed his family and near friends by an essay written in his leisure moments, in support of his own view of a much debated religious question. There dwelt within him habitually a serious conviction of personal responsibility, that led to a high estimate of the value of time, and he was rigid in his self-examination. At one time, near the close of his life, when speaking of his debility, he said, "but I do not think that I have gone back, and I am very thankful for it, because a single step backward would, I think, have finished my *sum* and it must have been shown as it stood on the *slate*, right or wrong, to the Great Master. I hope that what is wrong in the *sum* may prove to be written on *slate*, that Mercy may pass her soft and gentle hand over it. But there is something which no touch will remove, because it is not *there*—THE GOOD I HAVE NOT DONE."

His faith was a support and consolation to him in the times of his great sorrow. It gave him infinite comfort when his son Horace was removed by death. Indeed the strongest bond of union between the father and the son was, at all times, the assurance they felt of their common confidence and trust in the Triune God, and that trust was the father's anchor when the waves of sorrow went over him. It never failed him. His last days were illumined by a calm reliance upon

his Redeemer, and by a perfect willingness to meet the final summons whenever it might come. Doubtless he was found watching. The books which he read and actually studied during the months of June and July immediately preceding his death were "The Philosophy of Natural Theology," an Oxford Prize Essay, written by the Rev. William Jackson, in confutation of the scepticism of the present day, and "The Unseen Universe," or "physical speculations on a future state," both of them works of deep-toned piety, as well as of great research. They cannot be read without close attention, and intense thought.

I feel that I ought not to detain you longer, though very much of great interest remains unsaid. *After all*, Mr. Binney's powers and character are best illustrated by his life. That was singularly consistent and complete. It is safe to say that rarely if ever, has a man lived who had fewer apparent defects. From whatever point of human view he was observed, no flaw or imperfection was visible. In every aspect, he was symmetrical, with no faculty undeveloped or distorted, with not even an excellence overgrown at the expense of any other—throughout both great and good.

Such was Mr. Binney. So during three generations he stood erect and conspicuous among his brethren of the bar, and in this community, a light and an ornament—a strong tower and a ground of trust,—a leader and a guide.